

**REMARKS**

Claims 1-28 are presently pending in this application. Claims 1-28 have been amended to more particularly define the claimed invention.

It is noted that the amendments are made only to more particularly define the invention and not for distinguishing the invention over the prior art, for narrowing the scope of the claims, or for any reason related to a statutory requirement for patentability. It is further noted that, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

Applicant gratefully acknowledges the Examiner's indication that claims 3, 6-8, 11, 14-16, 19, 22-24 and 28 would be allowable if rewritten in independent form. However, Applicant submits that all of the claims are allowable.

Applicant has amended the Title of the Invention per the request of the Examiner to:

“MANAGEMENT APPARATUS, MANAGEMENT SYSTEM, MANAGEMENT METHOD, AND MANAGEMENT PROGRAM FOR MEMORY CAPACITY OF MOBILE TERMINALS.”

Applicant's claims 5-8 and 13-24 are objected to due to informalities. Applicant's have amended the claims to correct these informalities as follows:

claims 17 and 20 have been amended to recite “...program on a computer-readable medium including instructions executable by a computer...”; and,

claims 5-8, 13-16 and 21-24 have been amended to replace “its own” with “said.”

Claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant's Applied Prior Art (AAPA).

Claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sun, U.S. Pat. No. 6,101,505 in view of Ariga, U.S. Pat. Application No. 2002/0049826.

These rejections are respectfully traversed in view of the following discussion.

## **I. APPLICANT'S CLAIMED INVENTION**

The claimed invention (as defined, for example, by independent claim 1) is directed to an apparatus for memory capacity including a data capacity management means that manages data capacity of remote mobile terminals that communicate with each other via a network. A transmission judging means judges, in response to a request for data from a network and a vacant storage capacity of a memory issued from a remote mobile terminal, whether the requested data is to be transmitted to the remote mobile terminal by comparing the vacant storage capacity of the remote mobile terminal, which is managed by the data capacity management means, with the amount of the data to be transmitted to the remote mobile terminal. Furthermore, a transmitting means that obtains some data for storing in the remote mobile terminal and stores the obtained data and causes the remote mobile terminal to make a new vacant storage capacity when the data to be transmitted were judged not to be transmitted, and transmits the data to be transmitted, which were judged not to be transmitted, to the remote mobile terminal by using the new vacant storage capacity.

Conventionally, at a mobile terminal, the data from the external communication instrument are received and stored in a memorizing section ~~having~~ including a fixed memory capacity, and consequently, data exceeding the fixed memory capacity cannot be received and stored. In order to obtain additional data, whose size is larger than the vacant capacity of the

memorizing section, a user selects some data stored in the memorizing section and deletes the selected data, thereby securing a vacant capacity for the receiving data. (Specification at page 4, lines 13-24.)

The claimed invention (e.g., as recited in claims 1, 4, 9, 12, 17, 20 and 25-26), on the other hand, includes *a transmission judging means that judges, in response to a request for data and a vacant storage capacity of a memory issued from a remote mobile terminal, whether said requested data is to be transmitted to said remote mobile terminal by comparing said vacant storage capacity of said remote mobile terminal,* (Application at Fig. 2, page 22 line 16 to page 23, line 28).

## **II. THE ALLEGED PRIOR ART REJECTIONS**

### **A. 35 U.S.C. § 103(a) Rejection over Applicant's Applied Prior Art (AAPA)**

The Examiner alleges that Applicant's Admitted Prior Art, (AAPA), teaches the invention of claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27. Applicant submits, however, that AAPA does not teach or suggest each and every element and feature of the claimed invention.

The Examiner alleges that one of ordinary skill in the art would have been motivated to combine the teachings of AAPA to form the invention of claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicant respectfully submits that the combination of teachings of AAPA would not have been combined as alleged by the Examiner. Indeed, these references are completely

unrelated, and no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, contrary to the Examiner's allegations, neither of these references teach or suggest their combination.

Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

The Office Action states that the AAPA teaches a mobile terminal (Fig. 1) with a memory section (page 3, lines 8-12), and "a manual memory allocation and deallocation" [sic] (page 4, line 20-24).

The Office Action additionally states that that the AAPA does not specifically disclose a server, for the purposes of storing data, and a management apparatus for memory capacity, comprising a data capacity management means, a transmission judging means and a transmitting means.

The Office Action alleges that AAPA (2001-358753) discloses:

- A server for the purposes of storing large data thereby prevent [sic] data loss.

The Office Action alleges that AAPA (2001-184240 to Masanobu) discloses:

- a data capacity management means (page 5, lines 16-17, "a memory capacity management apparatus and a method thereof"),
- a transmission judging means (page 5, lines 19-21, "the transmitting side terminal judges whether the receiving side terminal has memory capacity being more than the amount of data to be transmitted or not"),

- a transmitting means (page 5, lines 22-27, “And when the memory capacity in the receiving side terminal is less than the amount of data to be transmitted, the transmitting side terminal makes the receiving side terminal secure the memory capacity being more than the amount of data to be transmitted, by making the receiving side terminal transmit some storing data to the transmitting side terminal”), and
- (Applicant concedes) a server 1, including storage 13, a CPU 12 and an empty capacity control module 11.

Masanobu teaches in the Detailed Description of the Invention:

[0023] Next, actuation in case a server 1 performs data transmission to a client 2 is explained. When performing data transmission from a server 1 to a client 2, CPU12 reads the data which should be transmitted from a store 13, and this read data is transmitted to a client 2 through a network 33 from the empty capacity control module 11. In this case, the empty capacity control module 11 of a server 1 if it judges ... whether the empty capacity of the storage 23 of a client 2 is insufficient to the amount of data which transmits Suspending data transmission, the empty capacity control module 21 makes the data on a store 23 shunt to other stores (here store 13 of a server 1) according to the conditions currently held beforehand, and secures empty capacity more than the amount of data transmitted to a store 23 from a server 1. (Emphasis added.)

Furthermore, with respect to the initiation of the transmission of data from the server 1 to the client 2, Masanobu teaches with respect to its first embodiment, as shown in Drawings 3 and 4:

[0025] When it connects through a network 33, and a server 1 and a client 2 build a confidential relation and perform data transmission from a server 1 to a client 2, the empty capacity control module 11 of a server 1 manages the empty capacity control module 21 of a client 2. In the empty capacity control module 11 of the server 1 which performs data transmission, as shown in drawing 3, in step S31, empty capacity detection is performed first. Here, the empty capacity of the storage 23 [is] notified by the empty capacity communications department 112 from the client 2 is incorporated, and the empty capacity of storage 23 is detected. (Emphasis added.)

With respect to the second embodiment, as shown in Drawings 5 and 6, data is “shunt” (transferred) to a removable memory card at the client 2:

[0034] It has, specifically different the memory (not shown), for example, the removable memory card, from the storage 23 with which a client 2 consists of a hard disk drive unit, and this. When the lack of empty capacity of the store of a client 2 occurs in the data transmission to a client 2 from a server 1, with the empty capacity control module 21 The data on a store 23 are made to shunt to the memory card with which the client 2 is equipped according to the conditions currently held beforehand, and empty capacity more than the amount of data transmitted from a server 1 on a store 23 is secured. (Emphasis added.)

With respect to the third embodiment, as shown in Drawings 7 and 8, the client 2 independently sends a “demand” to the server 1 regarding its empty capacity, before the server 1 transmits data.

[0047] The embodiment of this operation differ[s] to the 1st embodiment of above-mentioned operation in that the empty capacity control module 11 of a server 1 and the empty capacity control module 21 of a client 2 control self independently, respectively. With the embodiment of this operation, it specifically sets to the empty capacity control module 21 of a client 2. When it judges whether the empty capacity of storage 23 is insufficient based on the amount of data which received and the empty capacity of storage 23 is insufficient Publish the demand which stores in a store 23 the data which shunted the store 23 to the server 1, and it sets to the empty capacity control module 11 of a server 1. The storing field of the data which shunted according to the demand from a client 2 is created on a store 13, and it controls independently, respectively storing the data which shunted to this field etc. In addition, the configuration in the embodiment of this operation is the same as the 1st embodiment of above-mentioned operation, and this explanation is given using the sign of drawing 1. (Emphasis added.)

Additionally, with respect to the fourth embodiment, as shown in Drawings 9 and 10, it is most like a combination of the second and third embodiments, i.e., the client 2 has memory card like for storing data, and the client independently sends a “demand” to the server 1 regarding its empty capacity. See paragraphs [0058]-[0060], *et seq.*

In view of the above cited disclosures, Masanobu (or 2001-358753) fails to teach or suggest that the client 2 initiates a request for data from a network to the server 1. The first

and second embodiments clearly teach the server 1 initiates the data transfer to the client 2, and the third and fourth embodiments disclose the client transmitting only a memory capacity datum to the server independently and before the server 1 transmits data to the client 2. The client 2 makes no request for data from a network to the server 1.

**1. Applicant's Independent Claim 1**

Since, Masanobu fails to teach or suggest that its client 2 requests data from a network to the server 1, it stands to reason that Masanobu fails to teach or suggest the client making a request to the server 1 to obtain data from a network.

Therefore, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, “...*a transmission judging means that judges, in response to a request for data from a network and a vacant storage capacity of a memory issued from a remote mobile terminal,....*”

**2. Applicant's Independent Claim 4**

Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, “...*a data obtaining request transmitting means that transmits a request for obtaining data from said network to said management server,....*”

**3. Applicant's Independent Claim 9**

Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, “...*judging*

*whether data is to be transmitted to a remote mobile terminals, in response to a request for data from a network and a vacant storage capacity of a memory issued from said remote mobile terminal,....*"

**4. Applicant's Independent Claim 12**

Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, "*...transmitting a request for obtaining data from said network by a remote mobile terminal to said management server,....*"

**5. Applicant's Independent Claim 17**

Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, "*...judging, in response to a request for data from a network and a vacant storage capacity of a memory issued from a remote mobile terminal,....*"

**6. Applicant's Independent Claim 20**

Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, "*...transmitting a request for obtaining data from said network by a remote mobile terminal to said management server;....*"

**7. Applicant's Independent Claims 25 and 26**



Similar to Applicant's independent claim 1, AAPA, nor any alleged combination thereof fails to teach or suggest each and every element and feature, specifically, "...*a management server that transmits data, wherein at least one of said plurality of remote mobile terminals requests said management server to obtain data from said network,...*"

With respect to the rejection of Applicant's claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27, Applicant respectfully submits that AAPA (JP 2001-184240) would not have been combined with AAPA (2001-358753) and even if combined, the combination would not teach or suggest each and every element of the claimed invention, since AAPA (JP 2001-184240), as pointed out above, fails to teach or suggest each and every element of the claimed invention, and AAPA (2001-358753) fails to overcome the deficiencies of AAPA (JP 2001-184240).

Specifically, AAPA (2001-358753) fails to teach or suggest, "...*a transmission judging means that judges, in response to a request for data from a network and a vacant storage capacity of a memory issued from a remote mobile terminal, whether said requested data is to be transmitted to said remote mobile terminal by comparing said vacant storage capacity of said remote mobile terminal....*"

Therefore, in view of the above arguments, the Examiner is respectfully requested reconsider and withdraw these rejections.

**B. 35 U.S.C. § 103(a) Rejection over Sun, U.S. Pat. No. 6,101,505 in view of Ariga, U.S. Pat. Application No. 2002/0049826**

The Examiner alleges that Sun, U.S. Pat. No. 6,101,505, (Sun), in view of Ariga, U.S. Pat. Application No. 2002/0049826, (Ariga), teaches the invention of claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27. Applicant submits, however, that Sun in view of Ariga does

not teach or suggest each and every element and feature of the claimed invention.

The Examiner alleges that one of ordinary skill in the art would have been motivated to modify Sun with the teaching from Ariga to form the invention of claims 1-2, 4-5, 9-10, 12-13, 17-18, 20-21 and 25-27. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicant respectfully submits that Sun would not have been combined with Ariga as alleged by the Examiner. Indeed, these references are completely unrelated, and no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, contrary to the Examiner ' s allegations, neither of these references teach or suggest their combination.

Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

The Office Action states that Sun teaches Applicant's data capacity management means by Sun's disclosure of reference number 320 in Fig. 3a. The Office Action further states that Sun fails to teach Applicant's transmission judging means and transmitting means.

Sun teaches generally:

...a method of automatically upgrading an installed file to the most recent version without interacting with a user in a portable information terminal in which memory is restricted when a file is added, amended, or deleted. (Emphasis added.) (Column 1, lines 56-61.)

Sun further states with respect to files being added, amended or deleted:

The files installed in a portable information terminal are generally changed in the following three cases. First, new files are to be installed in the portable information terminal. In this case, the total size of the files to be installed must be smaller than the memory available in the portable information terminal. Second, there are files to be amended among the files installed in the portable information terminal. In this case, the total size of the files to be amended must be smaller than the size obtained by adding the memory size of the existing files to the size of the memory available in the portable information terminal. Third, when the files installed in the portable information terminal are no longer necessary, the files are deleted in order to provide more available memory in the portable information terminal. (Emphasis added.)

Sun teaches regarding step 320 with respect to the file adding feature:

First, when the file add key 252 is depressed (step 316), the master server selects files after operation of a dialog box which allows selection of files to be newly added (step 318). Here, the master server adds the selected files to a file add list and updates the information on the size of the memory of the portable information terminal (step 322) when the size of the memory of the selected files is smaller than the memory available in the portable information terminal (step 320). When the size of the memory of the selected files is larger than the available memory of the portable information terminal (step 320), an error message is displayed (step 319) and the process returns to the step 318. (Emphasis added.) (Column 3, lines 32-43.)

Additionally, Sun teaches regarding the determination of file capacity of step 334 with respect to the file amending feature:

When the file amend key 252 is depressed (step 330), the master server selects the files to be amended (step 332). When the size of the memory of the files to be amended is smaller than the size obtained by adding the memory size of the existing files to the available memory (displayed in the portable information terminal memory available display portion 266) of the portable information terminal (step 334), the master server adds the selected files to a file amend list and updates the information on the memory size of the portable information terminal (step 336). On the other hand, if the available memory is exceeded, an error message is displayed on the screen and the process returns to the step 332 (step 333). (Emphasis added.) (Column 3, lines 45-57.)

Therefore from the above teachings of Sun, the Office Action equates Sun's function of determining to display an error message when the size of the memory of the selected files to be added or amended is larger than the available memory of the portable information

terminal, with Applicant's *data capacity management means*.

The Office Action further states that Ariga discloses a "transmission judging means" at Fig. 2, reference no. 16, (a memory capacity detecting means) and a transmitting means, Fig. 2, reference no. 17, (an uploading object selecting means) "for the purpose providing [a] capacity control mechanism between the two devices."

Ariga teaches with respect to reference nos. 16 and 17:

[0051] FIG. 2 is a block diagram showing a construction of the portable terminal 1 of FIG. 1. In FIG. 2, the portable terminal 1 is constructed with communication control means 11, object receiving means 12, object transmitting means 13, command analyzing means 14, memory reading means 15, memory capacity detecting means 16, uploading object selecting means 17 and memory writing means 18. (Emphasis added.)

It is clear that Sun teaches that reference no. 16, a memory capacity detecting means, and reference no. 17, an uploading object selecting means, are located in the portable terminal 1. Applicant's claim recitation claims that the *data capacity management means, the transmission judging means and transmitting means*, are distinct from the *remote mobile terminals*.

Ariga fails to teach Applicant's transmission judging means "*judges, in response to a request for data from a network and a vacant storage capacity of a memory issued from a remote mobile terminal, whether said requested data is to be transmitted to said remote mobile terminal by comparing said vacant storage capacity of said remote mobile terminal, which is managed by said data capacity management means, with the amount of said data to be transmitted to said remote mobile terminal.*" It is clear from Applicant's claim recitation that the functionality of the judging is at a place other than the remote mobile terminal to which it transmits requested data.

It is additionally true that Ariga fails to teach Applicant's transmitting means: "*that*

*obtains some data for storing in said remote mobile terminal and stores said obtained data and causes said remote mobile terminal to make a new vacant storage capacity when said data to be transmitted were judged not to be transmitted, and transmits said data to be transmitted, which were judged not to be transmitted, to said remote mobile terminal by using said new vacant storage capacity,” wherein the function of *transmitting* is at a place other than the remote mobile terminal to which it transmits requested data.*

Furthermore, with respect to the alleged combination of Sun and Ariga, Sun teaches the communication of data from a “master server” (column 2, line 55) including memory availability determination means to a portable information terminal. Ariga teaches that the portable terminal 1 contains a memory capacity detecting means 16 and an uploading object selecting means 17, contrary to the teaching of Sun. Applicant contend that these references are completely unrelated, as cited above, and no person of ordinary skill in the art would have considered combining these disparate references. Additionally, the Office Action fails to specify and Sun fails provide any motivation or suggestion in the references to urge the combination as alleged by the Examiner.

Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness, and Applicant respectfully request the Examiner to reconsider and withdraw this rejection.

With respect to the rejection of Applicant’s dependent claims 2, 5, 20, 13, 18, 21 and 27, Applicant respectfully submits that Ariga would not have been combined with Sun and even if combined, the combination would not teach or suggest each and every element of the claimed invention, since Sun, as pointed out above, fails to teach or suggest each and every

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element of the claimed invention, and Ariga fails to overcome the deficiencies of Sun.

Therefore, the Examiner is respectfully requested reconsider and withdraw this rejection.

### III. FORMAL MATTERS AND CONCLUSION

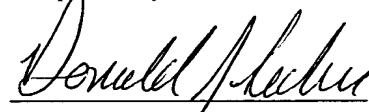
In view of the foregoing, Applicant submits that claims 1-28, the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

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Respectfully Submitted,



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